IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

Bail Appl..No. 3736 of 2007()

C.R.NO.19/2007 OF ARYANAD EXCISE RANGE

: PETITIONER 2ND ACCUSED

SURESHBABU,KUNNUMPURATH HOUSE,
KOTTAKKAKAM MURI,ARYANAD VILLAGE.

BY ADV. SRI.T.A.UNNIKRISHNAN
SRI.P.P.BIJU

RESPONDENTS: COMPLAINANT

STATE OF KERALA REP.BY
PUBLIC PROSECUTOR,HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 26/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.3736 of 2007

Dated this the 26th day of June, 2007

ORDER

Application for anticipatory bail. Petitioner faces allegations under the Kerala Abkari Act. The crux of the allegations against the petitioner is that when the petitioner and co-accused were transporting illicit liquor, they were intercepted by the excise officials. The co-accused was caught. The petitioner allegedly took to his heels and escaped. The seizure mahzar reveals the name of the petitioner as the accused who had run away. The investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The counsel submits that the petitioner had suffered a traffic accident and a steel rod has been inserted on her leg. From this the learned counsel for the petitioner builds up an argument that the petitioner could not be assumed to be capable of running away from the scene of the crime.

3. The learned Public Prosecutor submits that all the available indications point to the complicity of the petitioner and the alleged improbability by itself is unacceptable and does not justify the grant of anticipatory bail.

4. I am satisfied that there is merit in the opposition by the learned Public Prosecutor. The circumstances urged - of the alleged injury suffered, by the petitioner making him incapable of performing the alleged act of running away cannot obviously be accepted on the materials presently available. At any rate, I am satisfied that the petitioner must appear before the learned Magistrate having jurisdiction or the Investigating Officer and then seek bail in the regular and ordinary course.

5. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioner surrenders before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously- on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-